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EXAMINER

KHONG, ALEXANDER

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte PALLAVI PALLETI, ROHINI UPPULURI, and IAN HOLSMAN

Appeal 2014-009175
Application 12/757,342
Technology Center 2100

Before ERIC S. FRAHM, JOHN P. PINKERTON, and JEFFREY A.
STEPHENS, *Administrative Patent Judges*.

FRAHM, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF CASE

Introduction

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1–39. Due to an amendment entered by the Examiner after the Final Office Action, claims 8, 23, and 34 have been objected to as allowable if rewritten in independent form including all of the limitations of the respective base claims and any intervening claims (App. Br. 1 and 16, fn. 1; Advisory Action mailed Dec. 26, 2013, p. 2). Accordingly, only claims 1–7, 9–22, 24–33, and 35–39 are before us on appeal. We have jurisdiction under 35 U.S.C. § 6(b). We affirm.

Exemplary Claims

Exemplary independent claim 1 and dependent claim 6 under appeal, with italicized emphases and bracketed lettering added, read as follows:

1. A computer implemented method for identifying popular electronic content, the method comprising the following steps, performed by one or more processors, of:

[A] obtaining geographic data for a first geographic region associated with a client device, the geographic data comprising:

a geo-spatial identifier associated with the first geographic region; and

[B] *information identifying one or more second geographic regions and relationships between the first geographic region and corresponding ones of the second geographic region;*

retrieving, from a database, first data records associated with the geo-spatial identifier, wherein:

the first data records comprise one or more of (i) a number of requests for electronic content and (ii) a number of users that requested the electronic content within the first geographic region;

[C] *selecting*, when the first data records fail to include a threshold number of data records, *at least one of the second geographic regions* from the geographic data based on the information identifying the relationships;

[D] generating an expanded geographic region comprising the first geographic region and the at least one second geographic region, the expanded geographic region being associated with second data records, the second data records comprising the first data records and additional data records associated with the at least one second geographic region;

determining whether the second data records include the threshold number of data records; and

[E] *processing the second data records to identify popular electronic content within the expanded geographic region, when the second data records include the threshold number of data records*, the popular electronic content being identified based on at least one of the number of requests or the number of users.

6. The method of claim 4, wherein the selecting step comprises:

identifying the neighboring geographic region within the geographic data based on the geo-spatial identifier of the first geographic data and the information identifying the relationships.

*Examiner's Rejections*¹

(1) The Examiner rejected claims 1–4, 6, 9–22, 24–33, and 35–39 as being unpatentable under 35 U.S.C. § 103(a) over the combination of Vechersky (US 2009/0070293 A1; published Mar. 12, 2009) and Wassingbo (US 2010/0082526 A1; published Apr. 1, 2010).² Final Act. 2–15; Ans. 2–7.

(2) The Examiner rejected claims 5 and 7 as being unpatentable under 35 U.S.C. § 103(a) over the combination of Vechersky, Wassingbo, and Fish (US 2005/0080786 A1; published Apr. 14, 2005).³ Final Act. 15–17; Ans. 8.

¹ Although the Examiner mistakenly includes claims 20, 22, 31, and 33 as being rejected over Vechersky, Wassingbo, and Fish (Ans. 2 and 8), we take this as harmless error and consider claims 20, 22, 31, and 33 as rejected over Vechersky and Wassingbo in light of: (i) the Examiner's discussion of the merits of the rejection of these claims at pages 12–14 of the Final Office Action; (ii) the fact that the Fish reference was relied upon as teaching or suggesting (a) a neighboring geographic region proximate to and sharing a portion of a boundary with a first geographic region (claim 20), and (b) child and parent geographic regions (claims 22, 31, and 33) (Final Act. 15–17); and (iii) the lack of any discussion on the merits of claims 20, 22, 31, and 33 in the rejection applying Vechersky, Wassingbo, and Fish (*see* Final Act. 15–17 discussing only claims 5, 7, and 8 on the merits).

² Based on Appellants' arguments in the Briefs (App. Br. 16–25; Reply Br. 2–7), we select (i) claim 1 as representative of the group of claims 1–4, 9–20, 22, 24–31, 33, and 35–39; and (ii) claim 6 as representative of the group of claims 6, 21, and 32 (separately argued), rejected over Vechersky and Wassingbo.

³ Based on Appellants' arguments in the Appeal Brief (App. Br. 26–27), the outcome as to claims 5 and 7 rejected over Vechersky, Wassingbo, and Fish will stand/fall with the outcome of representative claim 1 from which claims 5 and 7 ultimately depend.

Issues on Appeal

Based on Appellants' arguments in the Appeal Brief (App. Br. 16–27) and the Reply Brief (Reply Br. 2–7), the following issues are presented on appeal:

(1) Did the Examiner err in rejecting claims 1–4, 9–20, 22, 24–31, 33, and 35–39 as being obvious because, allegedly, the combination of Vechersky and Wassingbo does not teach or suggest the disputed limitations at issue (limitations [A]–[E]) in representative claim 1, including “relationships” between a first geographic region and corresponding ones of a second geographic region?

(2) Did the Examiner err in rejecting claims 6, 21, and 32 because Vechersky fails to disclose any process that identifies cells within an additional cell neighborhood (i.e., identifies a neighboring geographic region), as recited in representative claim 6?

(3) Did the Examiner err in rejecting claims 5 and 7 as being obvious because the combination of Vechersky, Wassingbo, and Fish fails to teach or suggest the limitations set forth in these claims?

ANALYSIS

We have reviewed the Examiner's rejections (Final Act. 2–17) in light of Appellants' contentions in the Appeal Brief (App. Br. 16–27) and the Reply Brief (Reply Br. 2–7) that the Examiner has erred, the Examiner's Advisory Action mailed December 26, 2013, and the response to Appellants' arguments in the Appeal Brief found at pages 2–8 of the Answer. We disagree with Appellants' arguments.

With regard to representative claims 1 and 6, we adopt as our own (1) the findings and reasons set forth by the Examiner in the action from which this appeal is taken (Final Act. 2–6), as well as in the Advisory Action mailed December 26, 2013 (p. 2), and (2) the findings and reasons set forth by the Examiner in the Examiner’s Answer in response to Appellants’ Appeal Brief (*see* Ans. 2–7). We concur with the conclusions reached by the Examiner with regard to the obviousness of representative claims 1 and 6 in view of the combination of Vechersky and Wassingbo, and add the following for emphasis.

We agree with the Examiner that Vechersky teaches or suggests (i) a second neighborhood of cells as set forth in representative claim 1 (*see* Final Act. 2–5 and Ans. 4–6 citing Vechersky, ¶¶ 6 and 38); (ii) determining a *distance* between geographic regions that is equivalent to the recited “relationships” in representative claim 1 (Final Act. 3; Ans. 3–6 citing ¶¶ 6, 33, and 38); and (iii) as identifying a neighboring geographic region as set forth in representative claim 6 (*see* Final Act. 6 and Ans. 7 citing Vechersky, ¶¶ 6, 21, and 33). Appellants’ arguments addressing paragraph 43 of Vechersky are not persuasive, as this paragraph describes an embodiment of Vechersky that is not relied upon by the Examiner. Although Appellants are correct (*see* App. Br. 19–20, 23) that paragraph 43 of Vechersky discloses second cells being analyzed excluding first cells *in some embodiments*, we find that paragraph 38 discloses that first and second cells are combined for processing. Thus, the embodiment relied upon by the Examiner (*see* e.g., ¶ 38), meets the limitations of claim 1. Additionally, Appellants have not rebutted the Examiner’s new reliance (Ans. 3) upon paragraph 6 of Vechersky as disclosing a second neighborhood of cells as claimed.

In view of the foregoing, we sustain the Examiner's obviousness rejection of representative claims 1 and 6 over the combination of Vechersky and Wassingbo. For similar reasons as provided with respect to claim 1, and because Appellants (*see* App. Br. 26–27) have not disputed the Examiner's reliance upon Fish (*see* Final Act. 15–17 citing Fish, Fig. 1B; ¶ 33) as teaching (a) a neighboring geographic region proximate to and sharing a portion of a boundary with a first geographic region (claim 5), and (b) child and parent geographic regions (claim 7), we also sustain the Examiner's rejections of claims 5 and 7, which ultimately depend from claim 1.

CONCLUSIONS

(1) The Examiner did not err in rejecting claims 1–4, 9–20, 22, 24–31, 33, and 35–39 as being obvious because the combination of Vechersky and Wassingbo teaches or suggests the disputed limitations at issue (limitations [A]–[E]) in representative claim 1, including “relationships” between a first geographic region and corresponding ones of a second geographic region.

(2) The Examiner did not err in rejecting claims 6, 21, and 32 because Vechersky discloses a process that identifies cells within an additional cell neighborhood (i.e., identifies a neighboring geographic region as claimed).

(3) Appellants have not shown the Examiner erred in rejecting claims 5 and 7 as being obvious over the combination of Vechersky, Wassingbo, and Fish.

DECISION

We affirm the Examiner's obviousness rejections of claims 1–7, 9–22, 24–33, and 35–39.

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Application 12/757,342

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED